

STATE OF MARYLAND

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Shari T. Wilson, Secretary

BILL NO: Senate Bill 465

COMMITTEE: Education, Health, and Environmental Affairs

POSITION: Oppose

TITLE: Environment – Floating Vessel Platforms

BILL ANALYSIS: Senate Bill 465 (SB 465) authorizes a person to construct, install, operate, or maintain a 500 square foot floating vessel platform without having to obtain a license from the Board of Public Works or a permit from the Department of the Environment under specified circumstances.

POSITION AND RATIONALE: The Maryland Department of the Environment (MDE or Department) opposes SB 465. The traditional and customary platform size of 200 square feet has proven to be adequate for fifteen years. The Bill proposes a platform 2.5 times larger than what is currently allowed by either MDE or the U.S. Army Corps of Engineers (USACE). It is also important to note that the placement of a 500 square foot platform could not be approved under existing federal regulations and conflicts with the current Maryland State Programmatic General Permit negotiated by MDE and issued by the USACE to the citizens of Maryland. In addition, the proposed standard would not meet any guidelines set by any current or previously issued federal general permit for piers. If the Bill is enacted, a property owner would still be required to apply for a federal permit. Furthermore, in order for the federal permit to be valid, MDE would have to issue a Water Quality Certification, as required by Section 401 of the federal Clean Water Act, and a Coastal Zone Consistency Determination, as required by Section 307 of the Coastal Zone Management Act.

Under current law, a riparian owner may make “improvements into the water in front of the land to preserve that person’s access to navigable water. . . .” Md. Code Ann., Envir. § 16-201(a). It is the responsibility of the State to insure that these improvements are appropriate for site

conditions and constructed in an environmentally sensitive manner. The State retains ownership of the submerged land channelward of mean high water regardless of a project's encroachment into waters of the State. Reasonable access is generally considered to be access to water depths necessary to dock a boat and enter the mainstream of the adjoining body of water. Regulations promulgated in 1994 allow the construction of a 200 square foot platform of any configuration to be attached to a pier, regardless of the reason for the platform.

The emplacement of new platforms, especially with no regulatory oversight, raises environmental, aesthetic and safety concerns. Shading of the waterway by the platforms will block essential sunlight to underwater plants thereby causing significant die-back. Submerged aquatic vegetation is proven to be essential aquatic habitat and plays a major role in water quality enhancement and it would be difficult to minimize impacts to the plants.

Often these types of structures have been opposed by neighbors and other users of the waterway. While SB 465 suggests that platforms could not be placed in an area that would infringe upon adjacent property owners, such a determination is difficult to assess without regulatory oversight. Also, placement of any structure in a waterway adds to congestion and potentially creates a safety issue when additional structures will compete with sporting uses setting the stage for accidents and injuries.

These types of structures are considered to be an amenity, which should not be allowed to occupy Maryland waters without appropriate regulatory oversight. More importantly, existing regulations adequately accommodate the needs of riparian property owners by allowing a 200 square foot platform, which can be used to provide a similar docking facility without any amendment to existing law and where environmental, aesthetic, safety, and property concerns are addressed through the regulatory process.

FOR MORE INFORMATION,
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